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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/661,582	09/14/2000	Judith E. Schwabe	SUN-P4182	9182

7590 10/06/2003

D'Alessandro & Ritchie
P O Box 640640
San Jose, CA 95164-0640

EXAMINER

DAS, CHAMELI

ART UNIT	PAPER NUMBER
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2122

DATE MAILED: 10/06/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/661,582

Applicant(s)

SCHWABE, JUDITH E.

Examiner

C.DAS

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/14/00.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-87 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 6-23, 28-45, 50-54, 59-63, 68-73 and 78-87 is/are rejected.
- 7) ☒ Claim(s) 2-5, 24-27, 46-49, 55-58, 64-67 and 74-77 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2-4-6</u> | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

1. Claims 1-87 are pending.

Double Patenting

2. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

3. Claims 1, 23, 45, 54, 63, 73, 82 and 85 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 9, 27, 46, 53, 59, 64, 82 and 85 of the US application (09/661,581), filed on 9/14/00. Claims 6-22 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 10, 11, 12, 13, 14, 15, 16, 17, 18, 18, 19, 20, 21, 22, 23, 24 and 26, claims 28-44 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 28-44, claims 50-53 are rejected under

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35 U.S.C. 101 as claiming the same invention as that of claims 47-50, claims 59-62 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 54-57, claims 68-72 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 60, 61, 62, and 60, claims 78-81 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 65-68, claims 83-84 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 70-71, claims 86-87 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 73-74 of the US application (09/661,581), filed on 9/14/00. This is a double patenting rejection.

Allowable Subject Matter

4. Claims 2-5, 24-27, 46-49, 55-58, 64-67 and 74-77 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

TITLE: Automatic detection of per-unit location constraints, US 6230312 B1

TITLE: Method for categorizing and installing selected software components, US 6370686 B1

TITLE: Method and apparatus for loading a Java application program, US 6272674 B1

TITLE: Software implementation installer mechanism, US 6418554 B1

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TITLE: Active probes for ensuring software package compatibility, US 6539539 B1

TITLE: Method for error identification in a program interface, US 5761510 A

TITLE: Method for integrating automated software testing with software development,
US 6067639 A

TITLE: Dynamic connection to a remote tool in a distributed processing system
environment used for debugging, US 6058393 A

TITLE: Apparatus and method for dynamically verifying information in a distributed
system, US 6466947 B2

*TITLE: Method and apparatus for generating test data for an automated software
testing system, US 5652835 A

TITLE: Automated testing system, US 5490249 A

*TITLE: Method and apparatus for pre-processing and packaging class files, US
5966702 A *TITLE: Method and system for securely archiving core data secrets, US
6044155 A

TITLE: System for establishing plan to test components of web based framework by
displaying pictorial representation and conveying indicia coded components of existing
network framework, US 6473794 B1.

TITLE: A Security Architecture for Computational Grids, author Foster et al, ACM,
1998.

TITLE: Java resources for computer science instruction, author: Bergin et al, ACM,
December 1998

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TITLE: Java based conservative distributed simulation , author: Alois Ferscha , Michael Richter, ACM, December 1997

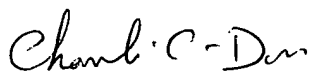
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chameli Das whose telephone number is 703-305-1339.

The examiner can normally be reached on Monday-Friday from 7:00 A.M. to 4:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Tuan Dam can be reached at 703-305-4552. The fax number for this group are:

(703) 746-7239 (official fax), (703) 746-7240 (non-official/draft), (703)746-7238 (after final).

An inquiry of general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-9600.



Chameli C. Das

Patent Examiner

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9/29/03